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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/622,274

07/17/2003

Michelle Klippen

1032.004

4206

36790 7590 08/13/2007
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EXAMINER

LOPEZ, MICHELLE

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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08/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/622,274

Applicant(s)

KLIPPEN ET AL.

Examiner

Michelle Lopez

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23,25-29,31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23,25-29,31 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/21/07, 5/21/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to the amendment filed on 2/12/07.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23, 25, 27, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snell US Application No. 2005/0155328 in view of Bercaits et al 6,370,843.

Snell discloses a method of compressing and packaging a single unused disposable diaper comprising the steps of compressing a single unused diaper to reduce a size of the diaper, whereby the diaper exists in a compressed state; locating the single diaper while in the compressed state within a package; drawing a vacuum such that portions of the package will collapse toward and compress the diaper; and sealing the package to maintain the vacuum within an interior of the package.

Snell does not disclose wherein the package comprises a heat shrinkable material, and the step of heating the package to shrink wrap the heat shrinkable material about the diaper after the package being compressed. However, Bercaits teaches the concept of a method for packaging an article comprising the steps of compressing a package, locating the package within a plastic film of a heat shrinkable material, and heating the package to shrink wrap the heat shrinkable material about the article as shown in col. 5; lines 24-48 for the purpose of compressing and reducing the package size and maintaining such compression for handling and transporting purposes. It would

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have been obvious to one having ordinary skill in the art to have provide Snell package as a heat shrinkable material as taught by Bercaits in order to heat shrink the package after vacuum the interior of the package to compress, reduce, and maintain a compressed and reduced size of the package.

With respect to claim 25, Bercaits also shows wherein the step of heating the package is performed before sealing the package as shown in col. 6; lines 3-8.

With respect to claim 27, Bercaits also shows wherein the step of sealing the package is performed during performance of heating the package as shown in col. 6; 3-8.

With respect to claims 31, Snell as modified by Bercaits does not specifically disclose drawing a vacuum at a specific pressure, i.e. at a pressure about 350 millibars. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the step of drawing a vacuum at a specific range of pressure, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

With respect to claim 32, Snell as modified Bercaits discloses the process step of compressing an article to be packaged at a desired reduced volume, but does not specifically discloses wherein the volume of the article is reduced by the method by about 30% to 70%. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have reduce an article to a specific reduced volume, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snell US Application No. 2005/0155328 in view of Bercaits 6,370,843, and further in view of Yamamoto 3,643,308.

Snell as modified by Bercaits discloses the invention substantially as claimed, but does not disclose wherein the process step of sealing the package is performed prior the step of heating the package. However, Yamamoto teaches a process step of sealing a package prior to the step of heating the package as shown in Figs. 1-2 for the purpose of compressing an article within a heat-shrink wrap. It would have been obvious to one having ordinary skill in the art to have reverse the sequence of steps of Snell as modified by Bercaits as taught by Yamamoto by sealing the package prior to the step of heating the package in order to compress an article within a heat-shrink wrap.

Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snell US Application No. 2005/0155328 in view of Bercaits 6,370,843, and further in view of Esteves 5,590,509.

Snell as modified by Bercaits discloses the invention substantially as claimed except that the package is formed from a tubular sheet of material having an endless wall with two separate panels as broadly interpreted. However, Esteves teaches the concept of forming a package from a tubular sheet of material having an endless wall with two separate panels 2 for the purpose of continuously packaging an article. It would have been obvious to one having ordinary skill in the art to have provided Snell's invention as modified by Bercaits, and further having a package being formed as taught by Esteves in order to continuously packaging an article.

Response to Arguments

Applicant's arguments have been fully considered but they are not deemed persuasive. In response to applicant's argument that Bercaits is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Bercaits was used to show the teaching of placing a package on a plastic film of heat shrinkable material, wherein the package is placed under compression to reduce its size prior to heat shrinking the plastic film to maintain the reduced and compressed size of the package.

For the reasons above, the ground of rejections are still deemed proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lam is cited to show related invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ML/
Patent Examiner



Rinaldi I. Rada
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Group 3700